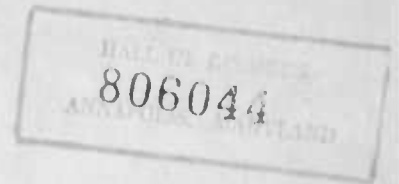


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SUBCOMMITTEE REPORT
ON
BUILDING AND LOAN ASSOCIATIONS
AND
CREDIT UNIONS
TO
THE MARYLAND TAX REVISION
COMMISSION OF 1939

December 27, 1940

Francis J. Carey, Chairman
Huntington Cairns
Oscar Leser
H. H. Walker Lewis

The recommendations in this report have been tentatively approved by the Commission. Comments and criticisms are requested.

TO THE MARYLAND TAX REVISION COMMISSION OF 1939:

This report embraces the recommendations of the Sub-committee on Corporation Taxation with respect to building and loan associations and credit unions.

Domestic building and loan associations are exempt from the bonus tax (Article 81, Sections 133, 134) and the annual franchise tax (Section 136). They are also exempt from the income tax (Section 223(b)). Shares in domestic building associations are exempted by statute (Section 7(16)) "to the extent that such shares represent investments in cash, fixtures, loans on hypothecated stock of such association, judgments or decrees of courts of this State, mortgages on real estate situated in this State, and bonds of the United States and the State of Maryland". The exemption, however, is not as broad as the present power of investment (Article 23, Section 164) and furthermore there may be unauthorized investments.

Prior to January 1, 1923, domestic building associations were required to report to the State Tax Commission and taxable assessments of the shares of many of them were made. Chapter 323 of the Laws of 1922 amended Section 211 of Article 81 so as to provide that after January 1, 1923, no domestic building association should be "required to file any statement or report with the State Tax Commission". No reports have been filed since 1922. Accordingly it is not possible to ascertain what taxes would be payable if the law were enforced. The exemption from reporting was, however, repealed by Chapter 226 of the Laws of 1929.

Credit unions are not subject to taxation, except as to real estate owned. (Article 11, Section 149, and, as to the income tax, Opinion of the Attorney General of January 26, 1940). The share tax is a tax on the shareholder so that the exemption of credit unions from taxation is not

in terms an exemption of their shares. But they are not required to report to the State Tax Commission. (14 Op. A. G. 76).

Savings banks, on the other hand, while exempt from other taxes except taxes on real estate, pay annually a franchise tax of $1/4$ of 1% of the total amount of deposits held by them, one-fourth of which goes to the State and three-fourths to the county in which the bank is situated, or to the City of Baltimore if it is situate therein (Article 81, Section 94).

The Commission recommends that the shares of domestic building associations and credit unions be exempted from taxation regardless of the character of their investments and that Section 94 of Article 81, which now relates only to savings banks, be amended so as to subject the paid-in capital and deposits of building associations and credit unions to the tax thereby imposed. For the purposes of the bonus tax and the ordinary annual franchise tax they should be classified with corporations having no capital stock. And they should be exempt from the income tax.

Federal savings and loan associations are not in terms exempted from State income or other taxes, but Section 1464 of Title 12 (U.S.C.), as amended by the Act of August 10, 1939, provides that "no State, Territorial, county, municipal, or local taxing authority shall impose any tax on such associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions". It is recommended that the system of taxation proposed above be applied to Federal associations which have their principal offices in this State.

Foreign building and loan associations are not exempted from the income tax or any other tax. Under Section 171 of Article 23, as enacted by Chapter 272 of the Laws of 1939, foreign building, loan or homestead

associations are to be taxed on a retaliatory basis. This unworkable provision should be repealed and foreign associations, if any, which have their principal offices in this State should be subject to the system of taxation recommended for domestic associations. Other foreign associations would remain subject to taxation in the same manner as foreign corporations generally.